

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
UNITED STATES OF AMERICA, : Docket #20-cr-00163-
 : PKC-6
 :
Plaintiff, :
 :
- against - :
 :
GRASSO, : New York, New York
 : November 10, 2020
 :
Defendant. :
 : REMOTE PRESENTMENT
----- :

PROCEEDINGS BEFORE
THE HONORABLE JUDGE DEBRA C. FREEMAN,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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None

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
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None

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2 THE CLERK: United States v. Rene Allard.

3 Counsel, please state and spell your name for the
4 record.

5 MS. SARAH MORTAZAVI: Good morning, your Honor.
6 This is Sarah Mortazavi for the government, S-a-r-a-h M-o-
7 r-t-a-z-a-v-i.

8 MR. STEPHEN MILLER: And Stephen Miller for the
9 defendant, Rene Allard. It's S-t-e-p-h-e-n M-i-l-l-e-r. And
10 the defendant's name is Rene, R-e-n-e; last name, A-l-l-a-
11 r-d.

12 HONORABLE DEBRA C. FREEMAN (THE COURT): All
13 right, Mr. Allard, are you on the line?

14 MR. RENE ALLARD (THE DEFENDANT): Yes.

15 THE COURT: Okay. Great. This is Judge Freeman.
16 Is there anyone else; do we have a Pretrial Services
17 representative?

18 MS. RENA BOLIN: Good afternoon, your Honor. This
19 is Rena Bolin calling in from Pretrial Services. R-e-n-a;
20 last name, B-o-l-i-n.

21 THE COURT: Okay. Is there anyone else
22 participating in the call?

23 No. All right. I just want to let everybody know
24 that, obviously -- maybe it's not obvious, but it seems at
25 this point it's obvious -- the reason we are proceeding

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2 this way, by remote means, is because we still have this
3 pandemic that's going on. And we'll be -- the telephone
4 conference line, as I mentioned before we went on the
5 record, is open to the public and the press on a listen-
6 only basis. If you happen to be a member of the public or
7 the press, please mute your line, please keep it on mute.
8 For that matter, the other people who are participating, if
9 you have the ability to mute your line when you're not
10 speaking, that might help us keep the sound quality a
11 little bit more clear.

12 All right, if you are participating today, please
13 speak one at a time. It's also really helpful if you state
14 your name each time you begin speaking. It's sometimes
15 difficult to distinguish different speakers just by voice.
16 And if for some reason anyone cannot hear something that's
17 being said, including you, Mr. Allard, please try to let us
18 know so we'll deal with any technological issues or repeat
19 what's said. We want to make sure you can hear and
20 understand. Okay?

21 THE DEFENDANT: Okay.

22 THE COURT: All right. I have a Consent Form
23 that's been provided for defendant's consent to proceed by
24 video or telephone conference here -- this would be
25 telephone conference -- for presentment and for -- it is

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just for -- is it just for bail, or is it for presentment,
as well?

MS. MORTAZAVI: This is Sarah Mortazavi for the
government. This is the first time the defendant is
appearing in this district on this Complaint.

THE COURT: All right, I'm going to indicate on
the form, I'm just going to add in that it's not just for a
bail or detention hearing, which is how the form currently
reads, but also for an initial appearance, at least in this
court, initial appearance before a judicial officer;
because even if bail was set in another district, it has to
be considered here separately.

It looks like this form was signed by Mr. Miller
on behalf of himself and Mr. Allard. Mr. Miller, is that
right?

MR. MILLER: That's right, Judge. Mr. Allard and I
are in different locations, and so I figured we would get
his consent by phone, so I went ahead and did the
electronic signature form.

THE COURT: Okay. Can you tell me what opportunity
you had to speak with him with respect to this issue of
proceeding remotely today in order to obtain his consent.

MR. MILLER: Sure. To make a record, we've talked
for many months, actually, about the dangers of appearing

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2 in court in New York City right now and over the past
3 several months, and that given a choice between an in-
4 person hearing and either a video or telephone conference,
5 that that would be the preferred way of proceeding, given
6 current COVID circumstances.

7 THE COURT: Okay, did you explain to Mr. Allard
8 that he has the right to be present in court with his
9 lawyer right next to him?

10 MR. MILLER: I did, yes.

11 THE COURT: Okay, did you believe, based on your
12 conversation with Mr. Allard, that he understood that right
13 and was willing to give it up?

14 MR. MILLER: Yes, I do.

15 THE COURT: Okay. We don't need an interpreter
16 for Mr. Allard, correct?

17 MR. MILLER: I don't think so. English is not his
18 first language, but he is pretty fluent. If he has
19 difficulty understanding the terms, he's usually pretty
20 good about letting us know.

21 And, Rene, I would encourage you to do that,
22 especially over the phone, where you can't read people's
23 lips. Just speak up. No one is going to think twice about
24 it if you say you have trouble understanding.

25 THE DEFENDANT: Okay.

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THE COURT: All right, Mr. Allard, if anything I say is confusing because it sounds like legal talk and it's not words or phrases or anything you're familiar with, just please say so, and I will try to explain to make sure you understand. And if at anytime you feel that you really do not want to proceed without an interpreter, let us know, and we will adjourn until we can get an interpreter to make sure you understand. Okay?

THE DEFENDANT: Thank you.

THE COURT: All right. And in talking to Mr. Allard about his consent to proceed remotely, did you feel you did not need an interpreter, Mr. Miller, for that conversation?

MR. MILLER: That's right, Judge. I've spoken to Mr. Allard several times in the eight months that I've known him, and we have never once encountered a situation where he needed an interpreter.

THE COURT: All right, so Mr. Allard, as I've said, under normal circumstances, everyone would be participating in this proceeding in the courtroom, physically present. And we're doing it this way out of safety concerns because of COVID-19. I do want to make sure that you are comfortable with that. The form just indicates -- the form that your lawyer signed for you

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2 indicates that you voluntarily consent to proceed in this
3 proceeding by telephone. Did you in fact discuss these
4 issues with your attorney before today?

5 THE DEFENDANT: Yes.

6 THE COURT: And do you in fact agree to
7 participate in this proceeding by telephone?

8 THE DEFENDANT: Yes.

9 THE COURT: And you agree to participate without
10 your lawyer being physically present next to you?

11 THE DEFENDANT: Correct, yes.

12 THE COURT: Okay. I find that defendant has
13 knowingly and voluntarily agreed to participate in this
14 proceeding by telephone after consultation with counsel,
15 and I'll accept the form signed on his behalf by counsel.

16 Now, the purpose of this proceeding today is to
17 inform you of certain rights that you have. It's also to
18 inform you of the charges against you, to decide whether
19 counsel should be appointed for you, and to decide the
20 conditions, if any, under which you will be or will remain
21 released.

22 With respect to your rights, you have the right to
23 remain silent. You are not required to make any statements.
24 Even if you have already made statements to the
25 authorities, you need not make any further statements.

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2 Anything that you do say can be used against you.

3 You have the right to be released, either with or
4 without conditions, pending your trial, unless I find that
5 there are no conditions that would reasonably assure both
6 your presence in court and the safety of the community.

7 You have the right to be represented by counsel
8 during all court proceedings, including this one; and also
9 during any questioning by the authorities. If you cannot
10 afford an attorney, you're entitled to have the Court
11 appoint counsel to represent you.

12 I understand that Mr. Miller is retained counsel,
13 so I'm just going to tell you that, if at anytime you feel
14 you are unable to continue to afford counsel, you may
15 return to the Court and make an application to have counsel
16 appointed.

17 You have been charged in a Complaint with a
18 violation of Title 18 of the United States Code
19 Section 371, which makes it a crime to conspire with others
20 to commit offenses against the United States, here
21 specifically to violate Title 21 of US Code Sections 331
22 and 333(a)(2), which make it a crime to defraud, mislead
23 and introduce and deliver for introduction into interstate
24 commerce drugs that are either adulterated -- that are
25 adulterated and misbranded. This crime as charged carries

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2 with it a number of possible sanctions, including possible
3 jail time.

4 Mr. Miller, have you had a chance to review --
5 read and review the Complaint with Mr. Allard?

6 MR. MILLER: Yes, Judge, I have.

7 THE COURT: Okay, did you have the benefit of an
8 interpreter if you needed one, or can you give assurance
9 that you did not need one?

10 MR. MILLER: We did not use an interpreter because
11 in all of our conversations and interactions I never felt
12 that one was necessary. Mr. Allard was following along and
13 speaking clearly back to me in English. But if he, you
14 know, as we've said several times to him, if he ever felt
15 that he needed something interpreted, he should speak up.
16 And we have a very comfortable relationship now; I expect
17 he would have done that if he wasn't able to understand
18 something.

19 THE COURT: All right, do you waive the reading of
20 the Complaint on Mr. Allard's behalf?

21 MR. MILLER: Yes, we do --

22 THE COURT: Public reading? Okay.

23 All right, Mr. Allard, because you have been
24 charged in a Complaint, you also have the right to a
25 Preliminary Hearing at which the government would have the

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2 burden of establishing that there is probable cause to
3 believe that the crime for which you're being charged has
4 been committed and that you are the person who committed
5 it. If probable cause is not established, you'd be released
6 from the charge. If it is established, the government would
7 then have the right to proceed to trial against you. If
8 after this proceeding today you are being held in custody,
9 you would have the right to have this Preliminary Hearing
10 held within two weeks, 14 days. If you are not in custody,
11 then the Preliminary Hearing need only be held within three
12 weeks or 21 days. You should also understand, though, that
13 there will not be any Preliminary Hearing at all if at some
14 point before the date when it's scheduled, you are either
15 indicted by a grand jury or what's called a criminal
16 Information is filed against you by the government. I'll
17 set the Preliminary Hearing date here after I determine the
18 question of bail.

19 I understand from counsel -- I think this was said
20 just before we got on the record -- that the parties have a
21 proposed bail package, is that right, counsel?

22 MS. MORTAZAVI: This is Sarah Mortazavi for the
23 government. Yes, your Honor, that's correct.

24 THE COURT: All right, I have the original report,
25 Pretrial Services Report, out of, I believe it was Nevada

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2 or some place.

3 MS. MORTAZAVI: That's correct, your Honor.

4 THE COURT: And I have an addendum to that report
5 from the Southern District of New York. The addendum on
6 page 3 contains a recommendation. Can you tell me the
7 extent to which your proposal matches that or differs?

8 MS. MORTAZAVI: Yes, your Honor. Sarah Mortazavi
9 again for the record. Our proposed package matches that
10 with three changes or additions that I can list now. The
11 first is to enter a --

12 THE COURT: Well, first of all, is there an amount
13 of a bond that you're proposing?

14 MS. MORTAZAVI: Yes, that's one of our proposals,
15 which is a \$100,000 bond.

16 THE COURT: Okay. Are you still looking for one
17 cosigner?

18 MS. MORTAZAVI: That's correct, your Honor.

19 THE COURT: Okay, so why don't you walk me through
20 the rest?

21 MS. MORTAZAVI: And this then leaves only one
22 clarification, which is that the parties would agree to add
23 a condition that the defendant will report criminal charges
24 to -- these criminal charges to any licensing authorities
25 where he holds an active or suspended license.

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2 THE COURT: Defendant will report this criminal
3 charges to -- say that again more slowly and let me type.

4 MS. MORTAZAVI: Sure. To any licensing authority
5 where he holds an active or suspended racing license.

6 THE COURT: Okay. Let me go through the conditions
7 that I have here. And I actually would like some
8 clarification on a couple of them. So I have travel
9 restricted to Southern and Eastern Districts of New York,
10 Middle District of Pennsylvania, Southern District of
11 Florida. And, Mr. Allard, obviously, you have to go through
12 other states in order to get to those states. To get from
13 New York to Florida, you obviously would, you know, either
14 go through or fly over other states. You're permitted to be
15 in those other states only for purposes of getting from one
16 of these places to another and not to dwell anywhere else.
17 All right?

18 THE DEFENDANT: Okay.

19 THE COURT: I have surrender of any travel
20 documents, any passports, if it's not already been
21 surrendered; no new applications for any new passports;
22 pretrial supervision as directed by Pretrial Services;
23 defendant to continue or seek employment. And then I have
24 defendant to maintain residence and not relocate without
25 Pretrial Services' consent; defendant to have no contact

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2 with codefendants. Do we have codefendants here? Who are
3 the codefendants? I only see one name on the Complaint.

4 MS. MORTAZAVI: Sarah Mortazavi for the government
5 again. Thank you for pointing that out, your Honor. For
6 clarification, Mr. Allard was arrested in connection with a
7 number of other cases that the government unsealed around
8 the same time of the arrest, and he has had close contact
9 with the defendants in one of those cases in particular
10 that is 20-crim-163, United States v --

11 THE COURT: I'm sorry, 20-crim -- what's the
12 number?

13 MS. MORTAZAVI: One six three.

14 THE COURT: Okay.

15 MS. MORTAZAVI: That's a case that currently has
16 five codefendants, and it's captioned United States
17 v. Grasso. And we would clarify that the restriction
18 should prohibit any contact with the codefendants in that
19 matter unless in the presence of counsel.

20 THE COURT: Is that the only other matter?

21 MS. MORTAZAVI: That's right, your Honor.

22 THE COURT: Okay. Defendant to have no contact
23 with defendants in US v. Grasso, 20-crim-163, unless in the
24 presence of counsel. Defendant not to use or obtain any
25 adulterated or misbranded prescription drugs for his

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2 business. I have a question about whether he would
3 necessarily know if a veterinarian provides a prescription
4 that's adulterated, how he would know that it's
5 adulterated. Is it a particular doctor who you're saying he
6 should not deal with or -- and then I have questions about
7 the other two conditions, as well, that Pretrial Services
8 suggests.

9 It says no contact with race horses without
10 supervision of third-party owner business. I'm not sure
11 what that means, "supervision of third-party owner,"
12 whether that means the third-party owner is going to be
13 supervised by Pretrial Services or is supposed to be
14 supervising the defendant or just, you know, be kept in the
15 loop about drugs in particular or something.

16 And then the last point about horses not be
17 entered in any race. If he's training the horses and
18 doesn't own the horses, how does he control whether the
19 horses are -- whether the owner makes a decision to race
20 one of these horses? How can this order extend to the owner
21 of the horses themselves?

22 MS. MORTAZAVI: I'm happy to address each of
23 those, your Honor. On the question on the adulterated or
24 misbranded prescription drugs, perhaps we could add that
25 the defendant shall not knowingly use or obtain any

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2 adulterated or misbranded prescription drugs. One of the
3 veterinarians that this defendant used is actually an
4 indicted defendant in United States v. Grasso, and so we
5 don't expect that they'll have communications seeking
6 prescription drugs. But with respect to behavior that would
7 be similar to that of his relationship with that
8 veterinarian, I think as long as the defendant is not
9 knowingly seeking out prescription drugs that are being
10 given to him illegally, that certainly covers the
11 government's concern there.

12 THE COURT: Okay. I would just add for clarity
13 that "knowingly," Mr. Allard, would include -- to my mind
14 would include sort of deliberate, like closing your eyes to
15 something that you think is possibly true but making
16 believe that, well, you know, I'm not asking so -- I'm not
17 asking and he's not telling me, so therefore I don't know.
18 I mean, you know, deliberate blindness is something that
19 can be covered by "knowing." All right?

20 Ms. Mortazavi, is that clarification useful, or is
21 there something that you think I should put in writing on
22 that? I mean it --

23 MS. MORTAZAVI: I believe that clarification is
24 helpful, your Honor. And I understand from my
25 conversations with Mr. Allard's defense counsel that he

1 PROCEEDINGS 17

2 understands the contours of avoiding misbranded or
3 adulterated prescription drugs.

4 THE COURT: Okay. So I'm just going to say
5 "knowingly" on the disposition sheet.

6 All right, can we move onto this question about
7 supervision of third-party owner?

8 MS. MORTAZAVI: Yes. Perhaps it would make more
9 sense to replace "supervision" with "presence of third-
10 party owner of premises where the race horse is located."
11 And the purpose of that is it works in tandem with the
12 final condition, which is to restrict the defendant's
13 ability to potentially administer drugs that should not be
14 administered to race horses, the theory there being if
15 there's a nominee of the premises who is detached and who
16 is present at the time he is with those race horses, it
17 reduces the likelihood that any prohibited drugs would be
18 administered.

19 THE COURT: Okay, so I don't know that much about
20 training of horses, but in my mind's eye the owner might be
21 sleeping, and there might be an early -- you know, the
22 trainer takes the horse out somewhere to run at some early
23 hour of the morning or something, is the owner -- does it
24 make sense to have the owner present for every type of
25 training at all hours all the time? I mean, you know, if

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2 you're saying no contact with race horses outside the
3 presence of the owner, is that realistic in terms of how
4 horse training is done?

5 MS. MORTAZAVI: For larger training facilities,
6 your Honor, it can be realistic. In these facilities that
7 have, you know, hundreds of horses in them, many employees,
8 around-the-clock security, it actually is possible to have
9 that level of supervision. I believe Mr. Allard does not
10 intend to have any contact with race horses -- and
11 Mr. Miller can correct me on that. So if there is a
12 proposal to --

13 THE COURT: Could it be --

14 MS. MORTAZAVI: -- make this a simpler
15 restriction --

16 THE COURT: Could it be no contact with race
17 horses outside the presence of third-party owner or
18 delegated representative of the owner?

19 MS. MORTAZAVI: That's certainly fine from the
20 government's perspective.

21 THE COURT: Mr. Miller, do you want to speak to
22 this at all?

23 MR. MILLER: No. I think your suggestion is fine.
24 It alleviates any burden on the owners themselves if they
25 want to delegate a representative for those early-morning

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2 sessions.

3 But, Judge, just for context, after Mr. Allard's
4 arrest in March, his license was suspended and essentially
5 the government has destroyed his ability to make a living
6 in racing, in entering horses in racing. So some of this
7 appears academic because -- and I certainly appreciate the
8 Court's effort for clarity -- but I just want to give you
9 the context that it is almost impossible for Mr. Allard to
10 train horses that will be entered in races in the various
11 state racing commissions.

12 THE COURT: Well, can I change the proposal of
13 Pretrial Services that says, "Horses under his training are
14 not to be entered into any race," to say that, "Defendant
15 is not to train any horses known to be," I don't know,
16 "race eligible," or something like that or --

17 MR. MILLER: The difficulty there, Judge -- this
18 is Mr. Miller -- the difficulty is that, I mean, I know in
19 theory every horse from the moment it's born --

20 THE COURT: Or known to be --

21 MR. MILLER: -- could be eventually -- right.

22 THE COURT: Or known to be -- known to -- I'm not
23 sure grammatically -- but "being entered in races," or
24 something.

25 MR. MILLER: Yeah, that's what I was going to head

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2 toward also, Judge, maybe, "may not train horses that are
3 entered in racing competitions." I'm not sure if that gets
4 the government --

5 THE COURT: Or entered in or where he knows that
6 there's a plan to enter them in, or something like that?

7 MR. MILLER: Well, the reason I'm afraid of that,
8 Judge, is that Mr. Allard has the opportunity -- it's one
9 of the only ways he can survive -- is by caring for young
10 horses. So not horses that are entered in racing
11 competitions. And we discussed this with the government.
12 My understanding is they are okay with those kinds of
13 training and basically caring for horses.

14 Where the government's interest becomes acute is
15 when those horses are actually entered in racing
16 competitions and the concern is on the integrity of the
17 betting and the racing markets. And so I'm afraid if
18 you --

19 THE COURT: So, "Defendant not to train" --
20 "Defendant not to train horses entered in any races"?

21 MR. MILLER: Yeah, that's sort of what I would
22 prefer because it's clear and it doesn't -- that last
23 phrase that you were considering, "eligible to be entered,"
24 just to me starts to get a little fuzzy.

25 THE COURT: Ms. Mortazavi, what do you think of,

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2 "Defendant not to train horses entered in any races"?

3 MS. MORTAZAVI: There's no objection to that
4 language, your Honor.

5 THE COURT: Okay. My concern, separate and apart
6 from the integrity of the betting and things like that,
7 from reading the Complaint, my concern was the health and
8 well-being of the horses, as there seemed to be some
9 indication that horses were being harmed by medication and
10 that they could be at increased risk of injury while
11 racing. So, you know, maybe if that's where the harm is
12 most acute, if a horse is being particularly prepped for a
13 race or is being entered into a race, maybe that is where
14 the potential harm to the horses is most acute.

15 MR. MILLER: And, also, Judge, that's where you've
16 got that other condition that says that he's not allowed to
17 knowingly acquire --

18 THE COURT: Right.

19 MR. MILLER: -- misbranded drugs. And so I think
20 you're getting at that interest through another condition.

21 THE COURT: All right. Okay, so if that's
22 everything, I will accept it. Let me go over that in its
23 entirety.

24 Mr. Allard, I'm going to go through these
25 conditions. And, please, if you don't understand

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2 something, please -- this is important -- for you to say
3 so. Okay?

4 THE DEFENDANT: Okay.

5 THE COURT: All right, so you'll be released on
6 your own signature -- oh, actually, we didn't talk about
7 whether you're looking for all conditions to be met prior
8 to release. Are you looking for the cosigner to sign
9 later?

10 MS. MORTAZAVI: This is the government. We would
11 ask for two weeks to comply with all conditions but for the
12 defendant to be released on his own signature.

13 THE COURT: All right. Two weeks is November 24.

14 Okay. His passport's already turned over, is that
15 right? Have --

16 MR. MILLER: That's right, Judge, it was -- I'm
17 sorry to interrupt -- that's right; it was turned over in
18 Nevada.

19 THE COURT: Does he have two passports? Does he
20 have two country passports?

21 MR. MILLER: I don't believe so. He turned over
22 his Canadian passport in Nevada. He's a green card holder.

23 THE COURT: So he does not have a US passport?

24 MR. MILLER: Right.

25 THE COURT: All right. Mr. Allard, you'll be

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2 released on your own signature on a \$100,000 personal
3 recognizance bond. That means that you don't have to lay
4 out that money, but if you do not appear, then you could be
5 responsible for that \$100,000. In addition, that bond will
6 have to be cosigned by one financially responsible person
7 within two weeks of today, by November 24.

8 Your travel will be restricted to the Southern and
9 Eastern Districts of New York, the Middle District of
10 Pennsylvania, and the Southern District of Florida, with
11 points in between just for purposes of travel between
12 those.

13 I understand you've already surrendered your
14 Canadian passport. You may not apply for any new passport
15 at this time.

16 You'll be subject to pretrial supervision as
17 directed by Pretrial Services. Is there -- let me just ask
18 Pretrial, are you looking for defendant to submit to
19 urinalysis just in case?

20 MS. BOLIN: Your Honor, there is no -- he reported
21 no history of substance abuse, so we are not specifically
22 recommending that. Should your Honor order a --

23 THE COURT: I thought you generally, if someone's
24 released, say, you know, do one drug test. If it's
25 negative, fine; if by any chance it comes out positive,

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then we learn something.

MS. BOLIN: I think generally, if they have some sort of history but have been clean for a long period of time, we would request an initial UA. But it doesn't appear as though this defendant has a history of substance abuse at all.

THE COURT: Okay. All right. And the government's view on that? Not even looking for a single drug test.

MS. MORTAZAVI: This is Sarah Mortazavi for the government. No, your Honor, I don't believe there's any indication that Mr. Allard has been abusing substances himself. Of course, the government accedes to whatever the Court believes is best on this score.

MR. MILLER: Judge, even though this is his first appearance here, it's worth noting that he's been on supervision for now almost eight months with no incident and no violations. And as his Pretrial officer has reported to the Southern District, I believe in the last couple of days, this is not someone that runs that risk for the Court.

THE COURT: Did he have a drug test in Nevada? Does anybody know?

MR. MILLER: I can go back and look at the report. I don't recall. I would think he would have, just in the

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normal course.

MS. MORTAZAVI: This is Sarah Mortazavi for the government. I'm attempting to review the information on the bond in Nevada to see if one was ordered.

THE COURT: Well, I'll keep going in the meantime.

You are, Mr. Allard, to continue your employment or seek employment if you need to and if you lose current work. You are to maintain your residence, not relocate without Pretrial Services' consent. In other words, if you want to move from the place where you've told Pretrial Services you're living, you have to let them know, and they have to approve any change in where you were living.

THE DEFENDANT: Okay.

THE COURT: You are not to have any contact with the defendants in this other case, US v. Grasso, unless you are in the presence of counsel. You are not -- you are not to knowingly use or obtain any adulterated or misbranded prescription drugs for business -- I would say "at all," but the condition says "for business."

You are not to have any contact with race horses outside the presence of a third-party owner of the premises or a delegated representative of the owner where the race horse is located of the premises. Let me say that again. Not to have any contact with race horses outside the

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presence of a third-party owner or delegated representative of the owner of the premises where the race horse is located.

You are not to train horses entered in any races.

You are to report these criminal charges in this case to any licensing authority where you hold an active or suspended racing license.

Ms. Mortazavi, did you figure that out?

MS. MORTAZAVI: Yes, your Honor. It does not appear that there was any drug testing required by Nevada.

THE COURT: All right. I'm going to skip it. I don't usually do that, but I'm going to skip it, given the length of time that he's been under supervision so far. I would think that if there were any concerns there, that they would have sought a drug test.

So I just want to -- I do want to caution you, Mr. Allard, that if you are out and you violate any of these conditions, not only could you be responsible for -- well, certainly, if you do not appear when you're supposed to or if you otherwise violate conditions, not only could you be responsible for the \$100,00, and also whoever cosigns the bond with you could be responsible for the \$100,000, but you could have separate charges brought against you, certainly for jumping bail if you do not

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2 appear. That could be separately prosecuted, even if these
3 charges were to be dismissed. Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: Okay. All right. Preliminary Hearing
6 date, counsel?

7 MS. MORTAZAVI: This is Sarah Mortazavi for the
8 government, your Honor. The parties have been using the
9 defendant's initial appearance in Nevada as the operative
10 date for scheduling the Preliminary Hearing deadline and
11 have already entered into a number of continuances. We
12 would ask that the Court, consistent with the most recent
13 court order from this district, set a Preliminary Hearing
14 date of December 4th, which is a Friday.

15 MR. MILLER: And that's fine with us, Judge.

16 THE COURT: Okay, that's within 30 days, so that's
17 fine.

18 I neglected to ask for date and time of arrest. He
19 was, I gather -- hold on one second, let me just see if I
20 can modify this disposition sheet -- I gather that
21 Mr. Allard was arrested elsewhere. When was it that he was
22 originally arrested?

23 MS. MORTAZAVI: He was originally arrested on
24 March 12th in Nevada, your Honor. And this is his initial
25 appearance in this district.

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2 THE COURT: He arrived here today? Was he
3 voluntary here?

4 MS. MORTAZAVI: He's not physically present in the
5 district, your Honor, but we have --

6 THE COURT: Oh, okay.

7 MS. MORTAZAVI: -- as you know, scheduled this
8 remotely to get this within this district and before a
9 judge here.

10 THE COURT: So is defendant still in Nevada?

11 MS. MORTAZAVI: The defendant has relocated to the
12 Middle District of Pennsylvania and is currently
13 contemplating a move to the Southern District of Florida.
14 But for purposes of COVID-19, we have been speaking with
15 Mr. Miller on behalf of Mr. Allard, and I understand there
16 are health concerns with him traveling physically to this
17 district.

18 MR. MILLER: That's right. Just again for context,
19 Judge, Mr. Allard was on vacation in Las Vegas. His
20 residence has been for a long time in the northeastern part
21 of Pennsylvania, and he travels into the state of New York
22 for work. That farm is being sold, and he needs to
23 relocate to the Southern District of Florida for the
24 winter. And that was -- we were planning just to do the
25 travel, the restriction, the enlargement of the travel

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restrictions; but it became clear that he needed to make an appearance here, not in Nevada again. And so that's how we find ourselves before the Court.

THE COURT: Okay. I also didn't note what time this presentment starts. Aisha, what time did we start this today?

THE CLERK: Maybe about 11:50, 37 minutes ago. So what's that, 11 --

THE COURT: I'll put 11:50. Okay. Close enough. Is there anything else?

MS. MORTAZAVI: Nothing from the government. Thank you, your Honor.

MR. MILLER: Nothing from Mr. Allard. Thank you for your consideration, Judge.

THE COURT: All right. You're welcome. Take care. Bye.

Oh, you know what? This is a case that's on a Complaint, not an indictment at this point or an information. And so I think the word now from this Court is that we're not going to consider this the first scheduled appearance as referred to in this newly amended Rule 5F about the government's Brady obligations and the Court's requirement to make clear to the government that it has these Brady obligations.

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So I'm just going to say very briefly that the government is ordered to comply with its disclosure obligations under *Brady v. Maryland* and its progeny. And there are possible consequences of violating this obligation. I believe that the first judge who sees the defendant, if the case is indicted or if there's a waiver of indictment, will be the judge who will issue the written order that the rule contemplates. That rule contemplates setting out the potential consequences for violating that obligation, including consequences like dismissal of the charges and sanctioning of any responsible lawyer for the government. But I do not believe I need to set out that in a written order today. So that's my plan not to; but if anyone thinks otherwise, they think that I should, please let me know. All right?

MR. MILLER: Thank you, Judge. I think the verbal's fine.

MS. MORTAZAVI: Thank you, your Honor.

THE COURT: All right. Take care, everybody. Be well.

(Whereupon, the matter is adjourned.)

C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the case of USA v. Grasso, Docket #20-cr-00163-PKC-6, was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature Carole Ludwig

Carole Ludwig

Date: April 8, 2021